

JEFFERSON COUNTY COMMISSIONERS
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KEN WEBER, CHAIR

CHUCK NOTBOHM

TOM LYTHGOE

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
January 16, 2007**

Present: Commissioners Lythgoe, Notbohm and Weber; Bonnie Ramey, Clerk and Recorder; Megan Bullock, County Sanitarian; Tiffany Heaton, Assistant County Attorney; Tara Mastel, Jan Anderson, *Boulder Monitor/Jefferson County Courier*; Marga Lincoln, *Helena Independent Record*; Celia Wolny, Paul Richards, Wally Hustad, Kenda Erickson, Nancy Wheeler, Joe Calnan, Pat Lewis, Sam Samson, Darrell Miller, Rob Tomich, Charlotte Trolinger, Charlene Hall, Amy Teegarden, Tom Harrington

MINUTES

Commissioner Lythgoe moved to approve the minutes of November 14. Commissioner Notbohm seconded. The motion carried.

CALENDAR REVIEW

- 1/17 Boulder Business Roundtable - Boulder - noon
- JLDC - Boulder - 2:00
- Larry Swanson presentation - Boulder - 6:00
- 1/18 Headwaters meeting - Butte - 12:30
- Elkhorn Working Group - 3:00
- 1/22 Center for Mental Health meeting - Great Falls - 10:30
- 1/23 Meeting regarding the Old Milwaukee Bridge - 9:00

COMMISSION REPORTS

SADDLE MOUNTAIN RMD

Commissioner Lythgoe reported that the Commissioners met with Bill Lloyd of Great West Engineering on Wednesday regarding the Saddle Mountain and Sawmill Road RID/RMD. They have set a tentative date of February 6 for the public meeting and invitations will be sent out to those affected.

ANNEXATION

Commissioner Lythgoe reported that he met with Jill Cohenour at the capital on Wednesday to
January 16, 2007 minutes.wpd

discuss annexation. Scott Mendenhall and Terry Murphy were also there. He stated that it was discussed, and Jill will get back with him if she is comfortable with sponsoring this bill.

RMDC

Commissioner Notbohm reported that he attended a RMDC executive board meeting. The topic of discussion was a contract dispute.

LEGISLATURE

Commissioner Notbohm reported that he was at the Capitol on Thursday with Joe Carter and Bill Lloyd to testify regarding the TSEP funding for bridges.

Commissioner Weber reported that he met with Tammy Johnson on Thursday regarding bills before the Legislature that can impact Jefferson County.

CTAC

Commissioner Weber stated that he attended the CTAC meeting on Thursday in Whitehall. The projected close time for the Golden Sunlight Mine has stayed the same, the end of 2008.

CORRESPONDENCE

Commissioner Weber presented a proposed letter from the Commission with comments regarding the O.T. Mine permitting process. He stated that Ed Handl and Tammy Johnson will also be submitting suggestions and noted that comments are due by Friday.

Commissioner Weber stated that the Commission had received a letter from Gayle Joslin, which he read into the record (on file in the Clerk and Recorder's office). Commissioner Lythgoe stated that he has talked to Gayle several times on the phone. He is not quite sure why the petition was not sent to her. She is correct that the Commission was considering a resolution regarding the roads, but this has not been done yet. Also, he told her that the Commission plans to deal with four or five roads at a time, not four or five roads total. He stated that he agrees with some of what is in the letter, but not all. Commissioner Weber stated that where she lives is of no concern to him. As a Commission, they certainly do understand public process, but not everyone is going to get their way so he can see where some may feel that they are being ignored. Commissioner Notbohm stated that she certainly has a right to her opinion. We have lost our Senator, Conrad Burns, so we are back to square one on the Elkhorn Cemetery. Some say that this is a different issue than roads, but not really. When it comes under federal control, it takes an act of Congress to reopen. There is procedure to close roads and this has not been done.

Note: several other letters regarding roads within the Forest Service were retrieved from e-mail after the meeting and are attached to these minutes and on file in the Clerk and Recorder's office.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

RESOLUTION 06-2007 DISTRIBUTION OF METAL MINES TRUST FUND MONIES

Commissioner Lythgoe read the resolution as follows:

RESOLUTION 06-2007

DISTRIBUTION OF COUNTY HARD-ROCK MINE TRUST ACCOUNT TO SCHOOLS

WHEREAS, §15-37-117(1)(e), MCA, requires that the governing body of Jefferson County establish a county hard-rock mine trust account; and

WHEREAS, money received by a county pursuant to MCA §7-6-2225 must remain in the hard-rock mine trust account and may not be appropriated by the governing body until:

- (A) A mining operation has permanently ceased all mining-related activity; or
- (B) The number of persons employed full-time in mining activities by the mining operation is less than one-half of the average number of persons employed full-time in mining activities by the mining operation during the immediately preceding 5-year period.

If circumstances of (A) or (B) occur, the governing body of the County shall allocate at least one-third of the funds proportionally to affected high school districts and elementary school districts in the county; and

WHEREAS, Montana Tunnels, a mine located near Jefferson City has undergone a closure where the number of full-time employees reached an average of less than one-half of the average number of people employed full-time in mining activities by the operation during the preceding 5-year period; and

WHEREAS, the allocation for the school districts totaled \$857,217.07 and the County voted to allocate \$142,782.93 of the County's allocation to bring the total school disbursement to \$1 million.

NOW, THEREFORE, BE IT RESOLVED, by the Jefferson County Board of Commissioners as follows:

One (1) Million dollars from the metal mine funds shall be distributed to the following affected high schools and elementary schools in Jefferson County:

Boulder Elementary	\$310,000 (31%)
Jefferson High School	\$310,000 (31%)
Clancy Elementary	\$310,000 (31%)
Basin Elementary	\$70,000 (7%)

DATED this 16th day of January, 2007.

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

KEN WEBER, CHAIR

TOMAS E. LYTHGOE, COMMISSIONER

CHUCK NOTBOHM, COMMISSIONER

Commissioner Lythgoe moved to adopt the resolution. Commissioner Weber seconded. Commissioner Notbohm stated that although he didn't agree with the allocation of the County's share, he approves of the resolution. The motion carried.

RESOLUTION 07-2007 DISTRIBUTION OF METALLIFEROUS MINES LICENSE TAX
Commissioner Lythgoe read the resolution as follows:

RESOLUTION 07-2007

DISTRIBUTION OF METALLIFEROUS MINES LICENSE TAX

WHEREAS, §15-37-117, MCA, requires that twenty-five percent (25%) of metalliferous mines license taxes, collected by the State under the authority of Title 15, Chapter 37, Part 1, MCA, be distributed to the county in which the mine is located; and

WHEREAS, § 15-37-117, MCA, requires the County Commissioners of such county to allocate those sums received by them, from said metalliferous mines license taxes collected by the State, as follows:

(1) Not less than forty percent (40%) to the County Hard Rock Mine Trust Reserve Account established under § 7-6-2225, MCA; and

(2) All money, not allocated to the said County Hard Rock Mine Trust Reserve Account, is to be allocated as follows:

(a) 33⅓% to the County Metal Mines Tax Reserve Account for planning or economic development activities;

(b) 33⅓% to the elementary school districts Metal Mines Tax Reserve Account, within the County, that have been affected by the development or operation of the metal mines; and,

(c) 33⅓% to the high school districts Metal Mines Tax Reserve Account within the County that have been affected by the development or operation of the metal mine; and

WHEREAS, there are several metalliferous mines located within the boundaries of Jefferson County; and

WHEREAS, Jefferson County government has recently received \$155,247.50 as its share of such metalliferous mines license taxes collected from the metalliferous mines within Jefferson County,

NOW, THEREFORE, BE IT RESOLVED by the Jefferson County Board of Commissioners as follows:

1. That forty percent (40%) of such total sum of \$155,347.50 shall be allocated to and placed in, the County Hard Rock Mine Trust Reserve Fund 2895 established under § 7-6-2225, MCA.

2. That all such sums, held in the above-referenced Hard Rock Mine Trust Reserve Fund and/or above-numbered fund(s) on behalf of the above-named school districts and Jefferson County, shall remain in such account and shall be properly accounted for under the appropriate fund number or numbers established for the same. Further, such sums shall be appropriated by the governing body of Jefferson County, and/or distributed thereby, only in accordance with the provision of § 7-6-2226, MCA.

3. That sixty percent (60%) of such total sum of \$155,247.50 shall be allocated to, and placed in, the County Metal Mines Tax Reserve Account established under § 7-6-2226, MCA.

4. That one-third (⅓) of the said sixty percent (60%) placed in the County Metal Mines Tax Reserve Account pursuant to the preceding Paragraph No. 3 shall be placed in Economic Development and Planning Account No. 2320. Such sums to be paid to said account (totaling at this time, the sum of \$31,049.50) shall only be used for planning or economic development activities.

5. That one-third ($\frac{1}{3}$) of the said sixty percent (60%), placed in the County Metal Mines Tax Reserve Account pursuant to the above Paragraph No. 3, shall be allocated and appropriated to the benefit of the following elementary school districts, affected by the development or operation of the several metal mines, or a pro-rata basis determined from the license taxes collected from the mine or mines within each such school district:

(i) To the Cardwell Elementary School District No. 16, the total sum of \$11,302.00 to be placed in said School District's Account No. 7716;

(ii) To the Whitehall Elementary School District No. 4-47, the total sum of \$11,302.00 to be placed in said School District's Account No. 7713;

(iii) To the Clancy Elementary School District No. 1, the total sum of \$4,645.02 to be placed in said School District's Account No. 7712;

(iv) To the Boulder Elementary School District No. 7, the total sum of \$3,378.20 to be placed in said School District's Account No. 7715;

(v) To the Basin Elementary School District No. 5, the total sum of \$422.28 to be placed in said School District's Account No. 7714;

6. That one-third ($\frac{1}{3}$) of the said sixty percent (60%), placed in the County Metal Mines Tax Reserve Account pursuant to the above Paragraph No. 3, shall be allocated and appropriated to the benefit of the following high school districts, affected by the development or operation of the several metal mines, on a pro-rata basis determined from the license taxes collected from the mine or mines within each such school district:

(i) To the Whitehall High School District No. 2, the total sum of \$22,604.00 to be placed in said School District's Account No. 7762;

(ii) To the Boulder High School District No 1, the total sum of \$8,445.50 to be placed in said School District's Account No. 7761.

DATED this 16th day of January, 2007.

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

KEN WEBER, CHAIR

TOMAS E. LYTHGOE, COMMISSIONER

CHUCK NOTBOHM, COMMISSIONER

Commissioner Notbohm moved to adopt the resolution. Commissioner Lythgoe seconded. The motion carried.

DISCUSS PHASE 2 OF FAIRGROUNDS MULTI-PURPOSE BUILDING IMPROVEMENTS

Commissioner Weber asked Commissioner Notbohm if he had any information on this project. He noted that the contract has been approved by the County Attorney. Commissioner Notbohm stated that he hasn't spoken with the Fair Board. Commissioner Lythgoe moved to authorize the chair to sign the agreement, noting that the money is in the Fair Board's budget. Commissioner Notbohm seconded. The motion carried.

DISCUSS AND DECIDE ON WORK REQUEST FOR CONSULTANTS ON ROADLESS AREAS - CLANCY/UNIONVILLE AND WHITETAIL/PIPESTONE

Commissioner Weber stated that he put this on the agenda so that they could discuss and decide on going forward with this. This will enable Environomics and Atlatl to identify roads in the Clancy/Unionville and Pipestone/Whitetail areas that are County rights-of-way. The Forest Service cannot wait forever for us to present our findings. Commissioner Lythgoe stated as a point of clarification, that Ed will be working on the mining issues rather than road issues. Commissioner Notbohm stated that the Helena national forest is holding up projects while we determine what roads we are going to claim. He stated that if we wait for these folks, we will miss the boat; we need to take this on ourselves. Commissioner Notbohm said that he feels we need to do a resolution and take a stand. He doesn't feel that there is enough time for these firms to do the needed research. Commissioner Weber stated that in speaking with Tammy Johnson, they will have a dedicated staff person. The problem with the Commission doing this is that they don't have the time to devote to the amount of research needed. Using Environomics will facilitate a speedier resolution. Commissioner Notbohm noted that Commissioner Weber has spent a lot of time the past year doing research. The Forest Service is going to be gating roads in the Clancy area. In his opinion, all of the roads in that area are public roads. Some of them they are not going to want open, but the Commission needs to take the position that they are all public roads. This will give them time to do research. Commissioner Lythgoe asked Commissioner Notbohm, for clarification, that it is his recommendation that they go back to the option of doing a blanket resolution to claim all roads. Commissioner Notbohm stated that this is correct. In talking to the foresters, the County needs to do this road by road. His contention is that there is a legal way to close roads, and it was not done.

Commissioner Weber stated that someone needs to research the roads to validate the claim. While he has done quite a bit of research, there is still much to be done. A dedicated staff person will be able to do the research much faster; they could then formulate a resolution.

Commissioner Notbohm stated that he believes that it is our responsibility to do this, and feels that the Forest Service should be doing research also. In doing the resolution, the County will be

staking a claim until such time as we are proven wrong. Spring is coming, and the projects will go forward.

Commissioner Lythgoe stated that indications from discussions with the Forest Service is that if we do a blanket resolution, we will end up in court. In discussions in the meetings held with the Forest Service, it was stated that we could claim certain roads and they could make the decision on a local level. If we do a blanket resolution, it goes over their heads. In his opinion, it would be best to give them research with proof that a road is ours, and they will work with us.

Commissioner Weber noted that research will be required no matter what we do. Commissioner Notbohm stated that he doesn't disagree. He noted, however, that other than a verbal statement, they have taken no stand one way or the other. He would like verification of this in writing.

Commissioner Weber stated that he has such a document in his office. Commissioner Notbohm stated that we haven't gotten a statement from the local level. Commissioner Weber stated that he has a letter from the Department of the Interior on the process. If we go with a document that says that all of these roads are ours, they'll just tell us to prove it. We will still need the proof gathered from research; without the research, the resolution means nothing.

Wally Hustad asked for clarification of the contract, how it is to be paid, etc. Commissioner Weber stated that it would be a contract for this particular piece of work, outlining the scope of work, a time frame, fee cap, etc.

Paul Richards asked if they are not at the point to talk about the costs for lawyers. The County Attorney has refused to stand with the Commission on this. He stated that the Commission is spending money like drunken sailors. He noted that the Commissioners and County Attorney are paid large salaries to do this work. Commissioner Weber stated that the County Attorney has not refused to stand with the Commission on this issue. The Commission is accountable to the public, and this is not the time to talk about other lawyers. Paul stated that the Commission is wasting time and money.

Celia Wolny stated that she is not clear on where the funding for this is coming from. Commissioner Weber stated that it has not been established yet, he hasn't made a motion. It is his intention to use metal mines monies. Celia asked what exactly does the Commission want these firms to do; what is the desired outcome.

Rob Tomich asked for clarification if there are two contractors. Commissioner Weber stated that an agreement has been entered into with Environomics and Atlatl. Rob asked if the Commissioners got bids or did a RFP. Commissioner Weber stated that they don't necessarily have to go out to bid for every dollar spent; there is a spending limit. Rob stated that if they didn't go out for a bid, that is unethical.

Commissioner Weber stated, to get back to Celia's question, roadless is a misnomer as there are roads in the area. Both the Clancy/Unionville and Pipestone/Whitetail have a travel plan. It is the Commission's intent to identify roads within these areas and determine if they want to accept, by resolution, any roads as a County right of way. It is important that research be done ahead of time, instead of a broad brush. In Utah, a commission accepted and claimed a road that later turned out to be abandoned, something they want to avoid. He went on to outline the expertise of Tammy Johnson and Ed Handl, and what they will be working on. Commissioner

Notbohm stated that until they get more information, and he doesn't agree with the use of metal mines monies.

Commissioner Lythgoe stated that the Commission is governed as to how they can go out and hire a contractor. They spoke with four people as it relates to these issues, and decided to work with these two. They do not need to go out for bid for under \$50,000. They are allowed, under law, to talk to people in business to solicit bids. Wally Hustad interrupted and asked if the County is bound by the ethics standards of conduct for state employees. Commissioner Weber stated that this is correct, as they are a subdivision of the state. Wally questioned if Ed Handel is a board member of the JLDC, noting that they have agreed to use metal mines monies to pay him. Commissioner Lythgoe stated that they haven't decided at this point how to pay them; he assumes that it will be recommended to use metal mines monies. Wally asked if Ed is on the JLDC board and if the JLDC is a private nonprofit. Commissioner Lythgoe answered yes on both counts. Wally asked if Commissioner Lythgoe informed the public of this conflict of interest. Commissioner Lythgoe stated that he doesn't believe there is a conflict of interest. Commissioner Weber noted that the JLDC did not contract with Ed.

Wally stated that he doesn't agree with an open-ended agreement, noting that they need to know the costs up front. The public needs time to address this conflict of interest. It is a breach of their duties to do something without taxpayer input.

Charlotte Trollinger stated that according to the newspaper, both firms are experts in mining matters rather than the research of roads. Commissioner Weber stated that Environomics are experts in research. They also bring to the table the relationship with other groups heavily into road research. The decision to enter into an agreement with these two firms was done in an open meeting with the opportunity for public comment. Their expertise in mining does not preclude research, and he noted that the County has worked with both firms in the past. Charlotte stated that this is not a cheap contract.

Kenda Erikson stated that the Commission needs to start having meetings in the evening at least once a month. The majority of the people who care about things are working during the day. She stated that the Commission slipped the Meth Center in when people were not looking. This is not a public forum; the commission needs to give people ample time to discuss these issues. Commissioner Notbohm stated that when he was on the Commission before, they attempted night meetings for important issues. He could count on one hand those who attended. Commissioner Lythgoe stated that they have done night meetings and people do not show up. The only time that they get a lot of people is when they send out personal invitations. They have noticed meetings in the normal fashion where not a single person has shown up, and these are meetings that will affect their pocketbook. It is a great idea, but it is not going to work. Also for people to say that this Commission is not transparent is baloney.

Rob stated that this is 2007. Sam Samson has been on these County roads around here for a hundred years; they should know what a County road is by now. Commissioner Weber stated that the County does have historic roads and has a list of what we consider to be County roads. The discussion is public rights-of-way that we may want to decide to accept as County roads. Rob asked if these roads will be brought to County standards. Commissioner Weber stated that they probably will not be. Rob asked if they are going to open these roads when the JLDC asks.

Commissioner Weber stated, that for clarification: the discussion keeps going back to the JLDC but it has nothing to do with the JLDC. He also noted that he has been approached by members of the JLDC that are not in agreement with the County's position. Wally asked what benefit this would provide to the County. Commissioner Weber stated it would provide access for timber harvest etc. Charlotte noted that it would open the County to litigation due to weeds etc. Commissioner Weber stated that he doesn't believe this to be true. It is state law that they are able to have non-maintained county roads.

Paul went back to the County Attorney's statement against a blanket resolution, and asked who the Commission was going to hire to defend them. Commissioner Weber asked Paul to read the comment again; the County Attorney doesn't agree with a blanket resolution, so they aren't going to do a blanket resolution, but go a different direction. Wally stated that he doesn't agree with this.

Commissioner Weber moved to enter into an agreement with Environomics to do research on roads in the Clancy/Unionville roadless area, up to 75 hours of research, and to report to the Commission with results of the research no later than March 1, with the money to come from the metal mines funds. Commission Lythgoe stated that the Commission has already accepted the proposals from Tammy Johnson's and Ed Handl's firms. Matt is in the process of developing the contract, which was accepted and was adopted at an open meeting. Wally asked for dollar amount they are talking about. Commissioner Lythgoe stated approximately \$1000 dollars a month for roads, and \$1400 a month for mining. Wally asked for how many months. Commissioner Notbohm suggested that the item be put off until the contracts are completed.

Commissioner Weber stated that this discussion would be postponed briefly so that they might take care of a time specific item.

TIFFANY HEATON - DISCUSSION OF ANIMAL CONTROL ORDINANCE AND INCREASE CASE LOAD ON COUNTY ATTORNEY'S AND SHERIFF'S OFFICES

Tiffany stated that she came to the meeting to address the issues that they have been having since the animal control ordinance was adopted. They need suggestions on how to make it work better. Since the ordinance was adopted, it has taken a lot of time and expenditure to deal with the issues. She said that it takes the sheriff's office literally three or four hours per animal call. She feels the need for an animal control officer and administration. Tiffany noted that the ordinance has been misused, such as in the case of bickering neighbors. The officers have been giving warnings to ease into this, but there have been questions on how to best implement the ordinance also. Craig had planned to be here to discuss his office and the amount of time etc. it is costing them, but he was called away. When a report hits her desk, it takes her about an hour to review it. She would request that the Commission look into an animal control officer. This person could screen calls and do research before they get to her office and then she could focus on cases that are going forward. Commissioner Weber asked Tiffany to write down suggestions and also give an overview of the amount of cases, calls, and cost, etc.. He asked how long it would be before she was free to be on an agenda again. Tiffany stated it would probably be four to six weeks and said she would be in contact with the office. Robert Myers stated that he was on the committee that developed the animal control ordinance. When he saw this on the agenda he was afraid that Tiffany was coming before the Commission to ask them to rescind the ordinance. He presented some written comments to the Commissioners for their review.

January 16, 2007 minutes.wpd

Resume discussion of work request for consultants on roadless areas

Commissioner Weber outlined the details of the contracts with Environomics and Atlatl, noting that there is a spending cap attached.

Celia stated that she would like to suggest, as it seems to be a much bigger issue than they thought it would be, that the Commission have an evening meeting and show the public that they are open to suggestions. She sees that people are unsure and an evening meeting would be a show of good faith and that the Commission is listening to the public. It may stop talk that the commission is unresponsive and may be going beyond what they feel the need to do.

Commissioner Weber stated that the issue of going above and beyond is not an issue in his mind. He noted that this issue has been discussed for the two years he has been in office and before that. The problem that he has is that the Commission met with the Helena National Forest and told them that we were going to get the information to them so that they could continue their work. He has no problem with an evening meeting, but they have been talking about this and trying to educate people about what they are trying to do for some time. He feels that they need to continue and proceed with the research.

Celia stated, because of the amount of money and the potential for more over time, the Commission needs to have meetings to hear input from the public.

Wally stated that his principal concern is taxpayer's money and how it is being spent. He asked for clarification of the terms of the contract and they are voting on at this meeting. He stated that he would advise the Commissioners not to do anything until the contract is adopted.

Commissioner Weber offered the example of having an attorney that you can call on as needed. Wally stated that it is irresponsible to enter into an agreement with no end in sight.

Commissioner Weber asked for the motion to be re-read. Commissioner Lythgoe seconded the motion. Commissioner Notbohm stated that he can see where people are coming from on this issue. He agrees that they need to do something, but he is uncertain what they will get from Environomics. He would suggest that they go to a March 1st deadline and see if they are able to provide what we need. The motion carried.

Celia stated that although this was brought up before, they did not mention where the money was to come from. She disagrees with the use of metal mines money for this. Commissioner Weber stated that the use of metal mines money has been discussed in Commission meetings in the past. This also in no way precludes his coming out in the evening to discuss.

Commissioner Weber stated that the next item is the Pipestone/Whitetail area. This is not as time sensitive, which is why he did not include it in his other motion. Commissioner Lythgoe stated that in the discussion with the Beaverhead-Deer Lodge Forest, the Commission was told that they need to get moving on this. The Commission has already entered into an agreement with these two firms. Surely they don't have to bring every item before the Commission. They have already committed the money to these project, so it gets to be administrative. With the legislative session, Environomics is going to be doing quite a bit related to mining issues. They should not have to appear every item before the Commission for approval.

Charlotte Trollinger asked if the contract includes a scope beyond road research. Commissioner Weber stated that this is correct.

Commissioner Weber asked if the Commission wants them to start on the Pipestone/Whitetail area. Commissioner Notbohm stated that they have time to wait. He would like to see how they are progressing come March 1st. Commissioner Weber agreed that he feels that they have time to wait.

DISCUSS AND DECIDE ON JLDC REPORTING REQUIREMENT TO THE COMMISSION

Commissioner Weber stated that he put this item on the agenda to discuss what the JLDC is supposed to report. He believes that the Commission gets what is required and more. He hopes to put this discussion to rest. Commissioner Notbohm asked Matt about this, and Matt also felt that this should be on the agenda.

Commissioner Notbohm stated that the reason this item is on the agenda is due to him. He sent a memo to Matt regarding reporting requirements, and got the answer that the JLDC needs to be doing something. It comes down to what is a report; Matt felt that minutes would constitute a report, but he doesn't feel that they are sufficient. He sent Matt another memo; and Matt answered not to him, but to Commissioner Weber. He felt that this was disrespectful. Commissioner Weber noted that the agenda is set by the chair, which is why Matt came to him.

Commissioner Notbohm then read his written comments into the record (on file in the Clerk and Recorder's office). He stated that there is more that he will probably be bringing to the public in the future. Commissioner Weber asked Bonnie to explain the County's support of the JLDC. Bonnie stated that the JLDC receives office space, a half-time secretary with benefits, office supplies and the County reimburses MSU for half of Tara's salary; these funds come out of the economic development funds. The past three years, money has been given out of the hard rock mine trust account for various projects. Last year, \$40,000 was given to cover bills. Commissioner Notbohm asked who pays Tom Harrington. Bonnie stated that she is not sure, but the money doesn't come from the county. Commissioner Weber stated that Tom is a MSU affiliate. Bonnie stated that when the JLDC had a CDBG grant, some match money came from the county.

Commissioner Weber asked Bonnie if when reports of JLDC projects are received, if it reports of how money is spent. Bonnie answered no, noting that she is a nickel and dime person. She noted that she was Clerk and Recorder when the JLDC was formed, and financial reports were to go to the Commission. A Commissioner has always sat on the board, and she assumed that the reports went to that Commissioner. She stated that if she had a detailed trial balance, as it was her understanding was required, it would clear up a lot of questions. Commissioner Notbohm stated that for grants, etc., there is no record of what they received or expended. He questioned how the industrial park will end up in the JLDC's name when so much public money has been put into it. The same goes for the AYA property; he can't see how they can end up with this. It is his understanding that the County couldn't sell the property for less than 90% of the value. Bonnie stated that it was purchased by the County from the state for \$13,500. It was in the agreement that the JLDC could purchase the property for the amount the County paid for it.

Wally stated that the JLDC is getting a benefit from public money, and asked how this could benefit the county. This is taking the property off of the tax rolls. He also asked the benefit to the county of those 200 acres in Whitehall. Commissioner Weber stated that one benefit to the county is that people have a place to work. Commissioner Notbohm noted that everything the JLDC deals with is public money, and the public has a right to know how it is spent.

Commissioner Weber noted that Commissioner Notbohm is not the Commission; he himself is not the Commission; as a group, they are the Commission. If Commissioner Notbohm asks for something, it is Commissioner Notbohm asking for something, not the Commission. If the JLDC were to back a candidate, that is one thing. However, if a member of the board wants to back someone, that is entirely different from the JLDC backing someone. Bonnie stated that as election administrator, she has told people numerous times that it is not against the law, or the JLDC by-laws to support a candidate, as long as they don't use the corporation name, and they do it as an individual. Commissioner Notbohm stated that the JLDC has become quite a political force in the County.

Wally stated that it is illegal for the county to support the JLDC with county funds; they are a board without a contract. The Commission voted to take them from a task force to a committee. Scott Mendenhall went to the state to get incorporation papers. The intent of the Commission was to get financial reports and for the JLDC to become a stand-alone corporation. Bonnie stated that this doesn't matter. It wasn't done properly when the JLDC was established, but they can't undo that. She has spoken with Matt, and he feels that we need to go forth now and make an agreement and establish a criteria for reporting, etc. Wally stated that this is a wonderful idea, but the JLDC has breeched the public trust and Tom Lythgoe has breeched the code of conduct. They have received over \$2 million in public funds. They can't go forward until an evaluation is done of how they operate.

Commissioner Notbohm stated that Bonnie has a good point; Nancy should work with Bonnie to bring everything up to date and go on from there. Wally stated that they can't move on until they evaluate what has been done. According to past minutes, it is clear that \$800,000 is going to pale compared to what is coming. He feels that Tom Lythgoe should recuse himself from any votes related to the JLDC.

Commissioner Weber asked Sam Samson to come forward to answer some questions, noting that he was one of the Commissioners on the board when the JLDC was established. He asked if the minutes were accurate, or if they are throwing semantics around. Sam stated that he has reviewed the minutes and related documents. It is true that Glenna Obie hoped that within three years the JLDC would be a free-standing council or corporation. Commissioner Weber asked if he remembers what reports were asked for. Sam answered that he doesn't remember, but he imagines what the minutes indicate is correct. Commissioner Weber asked if Sam feels that the Commission received reports. Sam stated that if they didn't, it was his fault as he was the Commissioner that sat on the board. He probably made mistakes; he is not a financial person. He agrees with Bonnie and Commissioner Notbohm; they should get what they can and go forward.

Commissioner Notbohm stated that he did send Sam Samson, Glenna Obie and Leonard Wortman, the Commissioners who originally set up the JLDC, a packet of information. He

didn't want to put words in their mouths. He then called Leonard and Glenna, and they stated that of course the reports they wanted were financial. Glenna was the first Commissioner to sit on the board, and there wasn't much to report, as they didn't have any money. Then it got forgotten. The JLDC is a private, non-profit organization, not a part of the County. Commissioner Weber asked if Commissioner Notbohm wants to ask every contractor the county uses for a trial balance. Commissioner Notbohm stated that all the money the JLDC uses is public money. Commissioner Weber stated that the majority of the funds expended in the past are not county funds. Commissioner Notbohm stated that they are using our name to get money. Wally asked why they are opposed to full disclosure. Commissioner Weber answered that he isn't. His question is not the ability to ask for financial reports, but for what monies. Bonnie said any money the county provides to them and any grant that they use Jefferson County's name on. There should be no problem in getting reports on those monies and it shouldn't be difficult. For the CDBG grant, she worked with Scott Mendenhall and she has those reports.

Wally stated that money from the county for operating expenses is hard to track. Metal mines money goes into the account and disappears. He questioned how the money was spent when Scott Mendenhall was both a public employee and a legislator. Commissioner Weber stated that they are in the position to clear the slate and give the ability to evaluate the documents. As a public entity, the county is not required to continue to fund them. A lot more needs to be said before they can deal with this.

Charlene Trollinger noted that any non-profit's books should be open. Wally stated that as a 501 (c) (6), they should not be able to take part in any projects that the public does.

Commissioner Weber asked Commissioner Lythgoe if he received financial reports at the JLDC meetings he attends. Commissioner Lythgoe stated that he does. Commissioner Weber asked if this has always been the case. Commissioner Lythgoe answered that this is correct. Commissioner Weber asked Commissioner Lythgoe if he is on the JLDC board by his personal decision. Commissioner Lythgoe answered that he was appointed by the Commission. Commissioner Notbohm asked which Commissioner was on the JLDC board before. Commissioner Lythgoe stated that it was Sam. Commissioner Notbohm asked if Sam got the reports. Sam stated that he probably did.

Commissioner Weber asked if the Commission receives monthly reports from the JLDC. Commissioner Notbohm stated that they do, but not financial. Commissioner Weber asked if the Commission gets a report of the revolving loan fund. Commissioner Notbohm stated that they get that one financial report, but not all the financial reports. Commissioner Weber asked Tara what, if any, financial reports the JLDC is not willing to provide. Tara stated that they are willing to provide any and all financial reports, with the exception of personal information from applicants. Commissioner Notbohm agreed that when it comes to the loan program, it is different. He noted that he asked for a report of the HUD grant and the industrial park. He is not faulting her, because she is new, but the biggest part of what he got was bills for advertising. He asked for two things, financials on the industrial park and what had been expended, and the HUD grant; bills made up over half of the packet. He feels that this is sandbagging; the information was worth nothing. Tara stated that what she did was to go through the entire file and provide everything; every dime expended on the project. They have expended \$180,000 of EDA funds and \$120,000 of county funds for the industrial park.

Commissioner Lythgoe stated that he has served on the JLDC board since 2003 as a voting member. He can't tell how often financial statements came across his desk - monthly, quarterly - but he has seen a lot of financial information. He has never seen anything that has caused him concern. Some of these reports he has passed on and some he hasn't. He stated that there is no cause for concern regarding how JLDC has spent money. Wally asked Commissioner Lythgoe if he feels good about the financials. Commissioner Lythgoe answered that he absolutely does. He also noted the knowledge that the JLDC board members have, and that they are open, honest people.

A brief recess was called.

The meeting was called back to order. Commissioner Lythgoe stated that Marga Lincoln reminded him that they, as a Commission, agreed to discuss the use of metal mines trust monies in a public meeting. Therefore, the decision made on the road project was inappropriate, and he feels that they need to rescind the decision and discuss it in a future meeting. Commissioner Lythgoe moved to rescind the original motion to spend metal mines trust dollars to support the contract with Environomics. Commissioner Notbohm seconded. The motion carried.

Commissioner Weber stated, to get back to the former discussion, they have been attempting to determine if reports have been received from the JLDC, and it has been determined that they have. They have attempted to determine if reports have been sent out, and it has been determined that they have. The question remains what reports have been requested by Commissioner Notbohm that he feels he hasn't received. Commissioner Lythgoe stated that, as he previously mentioned, there are a lot of reports that he received but didn't pass on. This is his fault, not the fault of the JLDC. Commissioner Notbohm said that, as he stated in the letter, what he would like to see happen is to get a complete trial balance. He assumes that Tara has been instructed not to respond to him. Tara stated that she received the letter just before the board meeting. This is a very busy time, and the agenda was already set and very full, so they were not able to discuss this fully. It will be dealt with at the next board meeting. Commissioner Notbohm stated that Tara had been very responsive and good about responding to his questions, so he was surprised when he heard from Joe rather than Tara. Tara stated that she was very busy on many projects at that time; it was her full intention to answer Commissioner Notbohm and provide what he requested. Commissioner Lythgoe stated that he may be somewhat responsible because at that meeting he suggested that the request come from the full Commission rather than one Commissioner.

Bonnie stated that the information is on Quick Books. There are several ways to do the reports. It is her understanding that Commissioner Notbohm wants detail, as the summary reports are available in the audit. Nancy is going to try a couple of printouts to see if they will satisfy the requests. If so, the reports will be available for review without having to bug the JLDC all the time. As for becoming stand-alone, it was their thought when the JLDC was formed that they would be stand-alone in three years, with no staff or support from the county. At that point in time, they didn't do a resolution or an agreement; they thought the JLDC would be stand-alone financially in three years. Also, they didn't have a lot of money. She and Scott were handling the CDBG grant, and it was easy to do the reports. Wally asked when this changed. Bonnie answered that she is not sure; she was not aware that they were getting other monies.

Commissioner Weber stated that what he is trying to get to, there was no sharing between departments and no expectations? Bonnie said, as she stated earlier, they can't go back and change the past. They need to fix this and move forward. Nancy can create the reports; she is very good at it. She personally doesn't believe money has been misused. She feels that the reports should be created to satisfy the requests and they should all move on. Commissioner Notbohm stated that they need to correct the problems, admit that they were operating illegally, and give complete disclosure. Commissioner Weber stated that he agrees that the situation needs to be corrected, but he won't admit that anything illegal was done. He stated that Tara is willing and capable of doing the reports.

Commissioner Weber stated that the next question is if they need an agreement or a contract. Commissioner Lythgoe asked if they need a contract or if the adoption of a resolution would suffice. Commissioner Weber said that this is a question for Matt. Commissioner Notbohm stated that people thought he was being nasty when he asked for a contract, but he is not sure if they can expend money without a contract. Wally stated that if the JLDC is going to be the County's economic development arm, they need to be public, not private. Commissioner Weber stated that Matt will provide legal advice if we need a contract or resolution. Tara stated that she would like guidelines of what reports are wanted. Commissioner Lythgoe stated that he doesn't feel that a trial balance is necessary. Tara asked if she should continue to do the balance versus last year as well as payments from the checking account. Commissioner Notbohm noted that Bonnie said that a trail balance would not be a problem for she and Nancy to do. They can't have a good accounting without a trail balance. Wally asked if Bonnie is asking for a trial balance. Bonnie stated that she is asking for one because it is what Commissioner Notbohm wants to see. Wally asked if this would answer his questions. Bonnie stated that it would answer what Commissioner Notbohm, Wally and several others have asked for. Commissioner Lythgoe stated that a trial balance is not an accounting mechanism that most people will care about. Bonnie stated that people are asking for specific details for certain amounts of money she doesn't know without a trail balance.

Commissioner Lythgoe stated that this is the first year that the JLDC has been given operating money. He asked what would happen if they were to be set up as any other department, if the County ends up funding them on a regular basis, and treated as any other department. Bonnie stated that then she would be doing their paperwork, paying their bills, etc. If they took their money and put it into their account, it would get people off of the JLDC's back. Commissioner Notbohm asked if she would charge for this. Bonnie stated that she doesn't charge anyone else. They are the economic development arm of the county. Commissioner Weber noted that another part of the JLDC's mission is to seek funding from elsewhere; this would be limiting them to the County's way of doing things. Bonnie stated that they aren't required to come through the County. Commissioner Lythgoe stated that they could, and noted that the Health Department gets grants. Bonnie stated that if the Commission wants, they can be set up with separate accounts. Commissioner Lythgoe stated that the JLDC may have reasons why they don't want to do this. Bonnie stated that rather than trying to hammer this out at this time, it would be better to have a group sit down and figure out what is needed to satisfy the questions. It was suggested that the committee be made up of a Commissioner, Bonnie, Matt, Nancy, Tara and someone from the JLDC. Commissioner Lythgoe moved to do just that. Commissioner Weber moved to amend the motion that it be taken to the JLDC for their input on who would sit on the board. Commissioner Lythgoe seconded the amendment. The motion carried, with Commissioners

Lythgoe and Weber voting aye and Commissioner Notbohm voting nay.

Commissioner Weber moved to select Commissioner Notbohm to sit on the committee. Commissioner Lythgoe seconded. Commissioner Notbohm stated that this might be premature; they need to discuss this with the board to see if they want to do this. The motion carried.

Wally stated that he doesn't believe that until this is resolved, any money should be given to the JLDC, and Commissioner Lythgoe should recuse himself from voting on any allocation to this group. Commissioner Weber stated that Commissioner Lythgoe is the Commission representative to the JLDC board. Commissioner Lythgoe asked if either Commissioner has a problem with him voting on items related to the JLDC. Both answered that they do not. Commissioner Lythgoe stated that he thinks it would be appropriate, as Commissioner Notbohm has so many concerns with how they operate, that Commissioner Notbohm serve on the JLDC board, and made a motion to that effect. Commissioner Weber stated that he had a concerned member of the public say that they felt he should serve on the board, as he is Commission chair. He told them that his feelings are that Commissioner Notbohm should sit on the board, to address his concerns. Commissioner Weber seconded the motion. Commissioner Notbohm stated that he feels that it would be non-productive to put him on the board after four years of frustration trying to get full disclosure. He takes government very seriously, and reporting is very important. It would not be fair to the JLDC to put him on the board. Until this is resolved, he isn't going to vote for a dime for economic development. He respectfully declines this appointment. Commissioner Lythgoe stated that he has no problem continuing to serve. The motion failed.

Joe Calnan stated that he is the president of the JLDC. He came over to the meeting to hear what was on the agenda, not to deal with accusations and harassment. He would ask that people deal with him, as president, rather than Tara, who is staff. Commissioner Notbohm stated that it was clear that Tara was instructed not to deal with or answer questions from himself. Wally said that Joe says he feels harassed, and asked if he feels the public's right to know is harassment. Commissioner Weber stated that it is much better to write a letter to address concerns and get on an agenda to have them discussed. If Wally has a problem, he needs to take it up with the Commission.

Commissioner Lythgoe moved to adjourn. Commissioner Notbohm seconded.

MEETING ADJOURNED

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

KEN WEBER, CHAIR

CHUCK NOTBOHM, COMMISSIONER

TOMAS E. LYTHGOE, COMMISSIONER